

Spouse Concerns Advisory
Panel

Meeting Agenda

MEETING GENDA

SPOUSE CONCERNS VISORY PANEL

Tuesday, 17 August 10:00 a.m.
Room 5E-62 Headquarters

- I. Review Task Force Report
- II. FELO Update
- III. Legal Guidelines

DRAFT

This is to certify that I have read the Separation and Divorce Section in the Family Employee Liaison Office notebook. I acknowledge receipt of an unclassified paper on general divorce law which I may keep with my personal records. I am aware, however, that for security reasons this paper does not contain certain very important information of which I have been advised.

In the event a separation or divorce becomes necessary, I understand that:

1. In order to protect my spouse's cover, I should submit my attorney's name to the Agency for security approval as soon as possible.
2. I should not disclose any classified information, including my spouse's true employer, to my attorney until I receive notice of security approval from the Agency.
3. My attorney's files should reflect my spouse's cover employment but my attorney and the court will have true facts regarding my spouse's compensation and employment.
4. Depending on the length of my overseas residence with my spouse, my entitlement to my spouse's retirement benefits may be more like those granted under the Foreign Service Retirement System or it may be more like those granted under the Civil Service Retirement System. Upon my request an Agency attorney will explain the applicable system to me in greater detail.
5. In order to avoid compromising my spouse's cover or prejudicing my rights, the separation agreement or divorce papers should indicate my percentage of entitlement to my spouse's benefits under "any federal retirement system" but should not refer to the CIARDS system.

Spouse

Date

Witness

Date

Separation and Divorce

This package has been prepared to provide information to employees and spouses who may be involved in a breakup of the marital relationship.

Separation and divorce actions are private affairs between the marriage partners. Government attorneys, however, can assist the parties to ensure the production of employment data and other information necessary for an equitable resolution of the marital dispute by the court. The Government attorney can explain general federal retirement law but will not take sides in the marital dispute, discuss the merits of your case with you or your spouse, or second guess the advice of your private legal counsel.

Obtaining Private Legal Counsel

In order to protect your rights it is suggested that you obtain an attorney who specializes in domestic relations. Possible sources of information on a particular attorney's specialities and competence are the Lawyer Referral Services of the local Bar Association, friends, associates and community leaders.

Finding the Right Court

One initial obstacle which you need to consider is whether you satisfy the residence requirements in order to bring a divorce action in a particular jurisdiction. These requirements vary from state to state but generally require that one party to the suit have maintained a permanent residence in the state in which the suit is brought for a certain period of time. For example, the residence requirement in Washington, D.C. and Virginia is six months, but in Maryland it is one year. In addition to the traditional grounds for divorce such as adultery, desertion, physical/mental cruelty, etc..., each of these jurisdictions has adopted a voluntary separation or "no fault" provision under which grounds for divorce can be established if both parties have lived separate and apart without cohabitation for a period of one year before instituting the action. You should consider raising these issues during your initial consultation with your attorney.

Legal Fees

A second factor to clarify early in any legal consultation is the fee schedule. You should ascertain whether your attorney charges for the initial consultation, how your attorney will bill for his/her time and exactly what the agreed-upon fee covers. You should determine, for example, whether the fee quoted covers both the separation agreement and the final divorce decree and whether the fee will be increased if the divorce is contested.

Alimony and Child Support

Any separation or divorce proceeding will necessarily involve an adjudication of property rights by a court. In appropriate cases, this may include provision of alimony and child support. Ordinarily, these payments are made directly by the party obligated to pay the alimony and child support to the party entitled to receive such payments. If problems arise in obtaining such payments, a former spouse may obtain a court order (called a qualifying garnishment^{order} or apportionment order) which will require the Government to pay directly to the former spouse the portion of the employee's salary or the retiree's annuity to which the spouse is entitled. Regulations concerning garnishment of the annuity are attached at Appendix A, regulations concerning apportionment are attached at Appendices B and C.

Civil Service Retirement Law

Under the Civil Service Retirement System, when an employee retires he/she has certain choices depending upon marital status. If the employee is married at the time of retirement, the employee may elect to receive a reduced annuity with a survivor benefit paid to the current spouse or may elect a full annuity for "self only" with no survivor benefit. If no survivor benefit or less than the maximum survivor benefit is chosen, the retiree and spouse must sign a form in which the current spouse acknowledges that no survivor benefit or less than the maximum survivor benefit has been elected.

If the employee is unmarried at the time of retirement, he/she may elect a full annuity for "self only," or a reduced annuity with a survivor benefit paid to a person with an insurable interest. Generally a close relative or former spouse who has a reasonable expectation of financial benefit from the continued life of the employee may be said to have an insurable interest. In order for an unmarried retiree to designate a person as having an insurable interest, the employee must first pass a physical examination.

In summary, three key points must be kept in mind. Under current Civil Service law a former spouse can only get a survivor annuity if the employee is unmarried at the time of retirement and expressly designates the former spouse to receive a survivor annuity as an insurable interest. Second, there is no way for a former spouse to be granted a survivor annuity if the employee is married to someone else at the time of retirement. Finally, even if the former spouse were designated to receive a survivor annuity as an insurable interest, the retiree upon remarriage can cancel the survivor annuity for the former spouse in favor of a survivor annuity for the new spouse.

In the event that an employee promises to elect a survivor benefit for a former spouse as part of a property settlement agreement and upon retirement elects instead a full annuity for self only or a reduced annuity with survivor benefit to a second spouse, the former spouse's only remedy appears to be a suit against the retiree for failure to comply with the terms of the property settlement agreement. Under current law, the former spouse has no claim against the Government.

Foreign Service Retirement Law

Eligible State Department employees are participants in the Foreign Service Retirement and Disability System. Under the provisions of the Foreign Service Act of 1980 entitlements to an employee's retirement annuity and survivor annuity are vested in the former spouse of an eligible State Department employee if the couple was married for ten or more years of the employee's creditable service with a Foreign Affairs Agency.

The former spouse is entitled to receive up to 50 percent of the full amount of the employee's lump-sum payment of his/her retirement contribution if he/she becomes separated from the service without becoming eligible for an annuity, up to 50 percent of the full amount of the employee's retirement annuity, and up to 55 percent of the full annuity as a survivor annuity. The precise amount is determined according to the years of marriage during the years of creditable service. Both entitlements may be modified by a spousal agreement or court order and both are subject to divestiture if, before commencement of the annuity, the former spouse remarries before reaching age sixty.

The maximum survivor annuity or combination of survivor annuities which may be provided is 55 percent of the full amount of the employee's annuity. Once a survivor benefit has been provided for the former spouse according to his/her pro rata share of 55 percent, an additional survivor benefit may be provided for another beneficiary (for example, a current or "second" spouse) for that portion, if any, which remains of the 55 percent ceiling on survivor annuities.

APPENDICES

- A. Processing Garnishment Order for Child Support and/or Alimony, 5 C.F.R. Part 581 (1982).
- B. Civil Service Retirement and Disability Fund, 5 C.F.R. Part 831 (1982).
- C. Foreign Service Retirement and Disability System, Section 801 et. seq. Foreign Service Act of 1980, 94 Stat. 2113 (1980).

- 13. Program for training course, "Coping With Violence Abroad,"
for FS dependents at Overseas Briefing Center. CIA dependents
under appropriate cover are encouraged to attend. 301
- 14. Cartoon, "The Foreign Service child returns to her homeland,"
Foreign Service Journal, 1969. 302
- 15. "An Hour of Terror and Courage," Washington Post, 18 April 1988. 303
- 16. "Overseas Briefing Center in the Limelight," AAFSW Newsletter,
April 1988. 304
- 17. Community Liaison Officers Operations Manual: "The CLO Role in
Evacuation and Crisis Management." 307
- 18. Airgram: "Standard Operating Procedures for Community Liaison
Office Coordinators," sent to all Diplomatic and Consular Posts on
21 August 1987. 329
- 19. Sample of direct communication with dependent spouses,
recently sent by FLO to all FS spouses, "Direct Official Communication." 339
- 20. AAFSW Forum Report on Foreign Service Families in Situations of
International Crisis, July 1983. 356
Military Services
- o 1. Statement of Family Policy by Secretary of Defense, Frank C. Carlucci,
1988. 383
- o 2. White Paper 1983: The Army Family, published by the Chief of Staff,
U.S. Army. 385
- o 3. "Research Ensures Programs (for Families) Remain on Target,"
Military Family, December 1987. 400
- 4. Report by U.S. Air Force Blue Ribbon Panel on spouse issues. 404
- Miscellaneous
- 1. "The Gray Divorcee; Loss of Husband and Home After 60" by Barbara S.
Cain, The New York Times, 27 December 1982. 432

CIA (Continued)

10. "Moral Damage and the Justification of Intelligence Collection from Human Sources," John F. Lanagan, S.J., Georgetown University. Published in Studies in Intelligence," (1981). 152
11. Employee Assistance Program handout information. 160
12. Doonesbury cartoon on communication between marriage partners today. 161

Foreign Service

1. FLO's First Year, A Congressional Hearing report, 1979. 162
2. Statement by the Honorable Dante Fascell on the Foreign Service experience, Hearing of the House Committee on Foreign Affairs, 1980. Ambassadorial statement at same Hearing. 163
3. Statement by the Honorable Dante Fascell on Former Spouse Legislation at Hearing of subcommittee of the Foreign Affairs Committee, 1 October 1980. 165
4. Statements from Seminar, "Diplomacy: the Role of the Spouse," Institute for the Study of Diplomacy, Georgetown University, as follows:
 - A. Ambassador Martin F. Herz, editor, the Seminar Report. 171
 - B. The honorable Ellsworth Bunker, former U.S. Secretary of State and Ambassador, now Director, Institute for the Study of Diplomacy. 172
 - C. Penne Laingen, wife of Charge held hostage in Iran, on the role of the traditional Foreign Service wife. 173
 - D. Jane Hart, former OSS staffer and now wife of Ambassador. 175

Foreign Service (Continued)

- E. Wendelgard von Staden, wife of Foreign Service Officer for Federal Republic of Germany and former FSO, on the modern FS wife. 176
- F. Laura Beth Sherman, wife of Ambassador Harvey J. Feldman, on the modern FS wife. 177
- G. Stephanie Smith Kinney, Foreign Service Officer, on recognizing FS wives as a unique national resource. 178
- 5. Washington Post article, Foreign Service Retreat, Wye Plantation, 1984. Topics of discussion concerned personnel matters. 179
- 6. Washington Post article on activation of FLO Family Members Skills Bank, 22 February 1988. 180
- 7. Former Spouse Legislation, Statement by Lesley Dorman, President of Association of American Foreign Service Women, 7 May 1979. 191
- 8. Report by Patricia Ryan, Chairman, Forum Committee on Retirement, AAFSW, same Congressional Hearing. 196
- have -* 9. "What Roles for Spouses?" and "Time-Use Survey," articles on FS spouses' contributions of their time to US missions abroad, AAFSW Newsletter, May - June 1978. Included is text of 1972 Directive that established status overseas for FS spouses, that of private citizen without obligations to the mission to which their husbands were assigned. 202
- 10. Report by AAFSW President Lesley Dorman to the Honorable Cyrus R. Vance, Secretary of State, concerning "Dependents' Employment Overseas." 209
- 11. Response by Secretary of State Vance to 1977 Report on the "Concerns of Foreign Service Spouses and Families." 217
- 12. AAFSW Forum Report on the Concerns of Foreign Service Spouses and Families, 1977. 233

MEETING AGENDA

SPOUSE CONCERNS ADVISORY PANEL

**Tuesday, 17 August, 10:00 a.m.
Room 5E-62 Headquarters**

- I. Review Task Force Report**
- II. FELO Update**
- III. Legal Guidelines**

L AF,

This is to certify that I have read the Separation and Divorce Section in the Family Employee Liaison Office book. I acknowledge receipt of an unclassified paper on general divorce law which I may keep with my personal records. I am aware, however, that for security reasons this paper does not contain certain very important information of which I have been advised.

In the event a separation or divorce becomes necessary, I understand that:

1. In order to protect my spouse's cover, I should submit my attorney's name to the Agency for security approval as soon as possible.
2. I should not disclose any classified information, including my spouse's true employer, to my attorney until I receive notice of security approval from the Agency.
3. My attorney's files should reflect my spouse's cover employment but my attorney and the court will have true facts regarding my spouse's compensation and employment.
4. Depending on the length of my overseas residence with my spouse, my entitlement to my spouse's retirement benefits may be more like those granted under the Foreign Service Retirement System or it may be more like those granted under the Civil Service Retirement System. Upon my request an Agency attorney will explain the applicable system to me in greater detail.
5. In order to avoid compromising my spouse's cover or prejudicing my rights, the separation agreement or divorce papers should indicate my percentage of entitlement to my spouse's benefits under "any federal retirement system" but should not refer to the CIARDS system.

Spouse

Date

Witness

Date

Separation and Divorce

This package has been prepared to provide information to employees and spouses who may be involved in a breakup of the marital relationship.

Separation and divorce actions are private affairs between the marriage partners. Government attorneys, however, can assist the parties to ensure the production of employment data and other information necessary for an equitable resolution of the marital dispute by the court. The Government attorney can explain general federal retirement law but will not take sides in the marital dispute, discuss the merits of your case with you or your spouse, or second guess the advice of your private legal counsel.

Obtaining Private Legal Counsel

In order to protect your rights it is suggested that you obtain an attorney who specializes in domestic relations. Possible sources of information on a particular attorney's specialities and competence are the Lawyer Referral Services of the local Bar Association, friends, associates and community leaders.

Finding the Right Court

One initial obstacle which you need to consider is whether you satisfy the residence requirements in order to bring a divorce action in a particular jurisdiction. These requirements vary from state to state but generally require that one party to the suit have maintained a permanent residence in the state in which the suit is brought for a certain period of time. For example, the residence requirement in Washington, D.C. and Virginia is six months, but in Maryland it is one year. In addition to the traditional grounds for divorce such as adultery, desertion, physical/mental cruelty, etc..., each of these jurisdictions has adopted a voluntary separation or "no fault" provision under which grounds for divorce can be established if both parties have lived separate and apart without cohabitation for a period of one year before instituting the action. You should consider raising these issues during your initial consultation with your attorney.

Legal Fees

A second factor to clarify early in any legal consultation is the fee schedule. You should ascertain whether your attorney charges for the initial consultation, how your attorney bills for his/her time and exactly what the agreed-upon fee covers. You should determine, for example, whether the fee quoted covers both the separation agreement and the final divorce decree whether the fee will be increased if the divorce is contested.

Alimony and Child Support

Any separation or divorce proceeding will necessarily involve an adjudication of property rights by a court. In appropriate cases, this may include provision of alimony and child support. Ordinarily, these payments are made directly by the party obligated to pay the alimony and child support to the party entitled to receive such payments. If problems arise in obtaining such payments, a former spouse may obtain a court order (called a qualifying garnishment^{order} or apportionment order) which will require the Government to pay directly to the former spouse the portion of the employee's salary or the retiree's annuity to which the spouse is entitled. Regulations concerning garnishment of the annuity are attached at Appendix A, regulations concerning apportionment are attached at Appendices B and C.

Civil Service Retirement Law

Under the Civil Service Retirement System, when an employee retires he/she has certain choices depending upon marital status. If the employee is married at the time of retirement, the employee may elect to receive a reduced annuity with a survivor benefit paid to the current spouse or may elect a full annuity for "self only" with no survivor benefit. If no survivor benefit or less than the maximum survivor benefit is chosen, the retiree and spouse must sign a form in which the current spouse acknowledges that no survivor benefit or less than the maximum survivor benefit has been elected.

If the employee is unmarried at the time of retirement, he/she may elect a full annuity for "self only," or a reduced annuity with a survivor benefit paid to a person with an insurable interest. Generally a close relative or former spouse who has a reasonable expectation of financial benefit from the continued life of the employee may be said to have an insurable interest. In order for an unmarried retiree to designate a person as having an insurable interest, the employee must first pass a physical examination.

In summary, three key points must be kept in mind. Under current Civil Service law a former spouse can only get a survivor annuity if the employee is unmarried at the time of retirement and expressly designates the former spouse to receive a survivor annuity as an insurable interest. Second, there is no way for a former spouse to be granted a survivor annuity if the employee is married to someone else at the time of retirement. Finally, even if the former spouse were designated to receive a survivor annuity as an insurable interest, the retiree upon remarriage can cancel the survivor annuity for the former spouse in favor of a survivor annuity for the new spouse.

In the event that an employee promises to elect a survivor benefit for a former spouse as part of a property settlement agreement and upon retirement elects instead a full annuity for self only or a reduced annuity with survivor benefit to a second spouse, the former spouse's only remedy appears to be a suit against the retiree for failure to comply with the terms of the property settlement agreement. Under current law, the former spouse has no claim against the Government.

Foreign Service Retirement Law

Eligible State Department employees are participants in the Foreign Service Retirement and Disability System. Under the provisions of the Foreign Service Act of 1980 entitlements to an employee's retirement annuity and survivor annuity are vested in the former spouse of an eligible State Department employee if the couple was married for ten or more years of the employee's creditable service with a Foreign Affairs Agency.

The former spouse is entitled to receive up to 50 percent of the full amount of the employee's lump-sum payment of his/her retirement contribution if he/she becomes separated from the service without becoming eligible for an annuity, up to 50 percent of the full amount of the employee's retirement annuity, and up to 55 percent of the full annuity as a survivor annuity. The precise amount is determined according to the years of marriage during the years of creditable service. Both entitlements may be modified by a spousal agreement or court order and both are subject to divestiture if, before commencement of the annuity, the former spouse remarries before reaching age sixty.

The maximum survivor annuity or combination of survivor annuities which may be provided is 55 percent of the amount of the employee's annuity. Once a survivor benefit has been provided for the former spouse according to his/her pro rata share of 55 percent, an additional survivor benefit may be provided for another beneficiary (for example, a current "second" spouse) for that portion, if any, which remains on 55 percent ceiling on survivor annuities.

A P P E N D I C E S

- A. Processing Garnishment Orders for Child Support and/c Alimony, 5 C.F.R. Part 581 (1982).
- B. Civil Service Retirement and Disability Fund, 5 C.F.R. Pa 831 (1982).
- C. Foreign Service Retirement and Disability System, Section 80. et. seq. Foreign Service Act of 1980, 94 Stat. 2113 (1980).